IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.258 OF 2005
IN
NOTICE OF MOTION NO.1148 OF 2004
IN
SUIT NO.1120 OF 2004

Ramulu G. Pitla & Ors. ....Appellants
Ori.Plffs.

V/s.

Chinubai G. Pitla & Ors. ....Respondents
Ori.Defts.

Mr.J.G. Shukla i/b G.H. Shukla & Co. for the Appellants.

Mr.S.J. Irani for the Respondents.

CORAM : A.P. SHAH AND
S.J. VAZIFDAR, JJ.
DATED : 20TH APRIL, 2005.

P.C. :

1. This is an Appeal against the order of the learned single Judge dismissing the Plaintiffs' Notice of Motion for interim reliefs in respect of the suit property viz. Room No.511 in Sitladevi Darshan, Mumbai. Respondent No.1 is the step-mother of the Plaintiffs and was admittedly permitted to occupy the said premises. The Appellants' case is that she was only permitted to use the same as a caretaker. It is alleged that Respondent No.1 was not legally wedded to

the deceased.

2. To determine who was in actual possession of the premises, by an order dated 4th April, 2005, we directed the Prothonotary and Senior Master to appoint an officer of this Court as Commissioner to inspect the premises and to submit a report as to who is in actual possession of the suit premises. Accordingly, the Commissioner visited the site and he submitted his report dated 4th April, 2005. Prima-facie, it appears that the relatives of Defendant No.1/Respondent No.1 is in possession of the suit premises. The Commissioner's report however, clarifies that he was not in a position to say definitely who was residing there.

3. In view of rival contentions and considering the Commissioner's report, ends of justice would be met by permitting Respondent No.1 to continue in possession as an agent of the Court Receiver but without royalty or security, as the property does require to be protected.

4. In the circumstances, we pass the following order :-

i). Court Receiver, High Court, Bombay is appointed as Receiver of the suit property i.e. Room No.511, 5th floor, "Sitladevi Darshan" building, 11th Lane, Kamathipura, Mumbai-400 008. The Receiver shall however, permit Respondent No.1 to occupy the said premises as the agent of the Court Receiver but without royalty or security.

. The Appeal is accordingly disposed of.